complaints, that they're waiting too long to get the pages, that you would want to know as much information as possible about your system in order to decide how to make it more efficient and handle more customers?

A I probably should. If, if --

Q But you don't --

A -- there's something that we can do about it.

Q But as I understand your testimony, you don't have a series of reports that you get monitoring things like customer base, customer delay time, any of that, as part of your duty of maintaining the system. Isn't that right?

A Customer base I do. But again, you can't measure customer delay time.

Q You can't measure customer delay time?

A No. I can't measure delay time. That's not a variable that I have control over or have feedback from. I have to manually go in there and look at a page, generate a page and wait till it come out.

Q Well, I guess I'm, I'm, I'm puzzled. Are you saying that you have no control over customer delay which is one thing, or that you cannot measure how much customer delay is occurring?

A The terminal does not feed to me a statistic that indicates the channel delay time.

Q What about the Hark verifier?

A The Hark verifier doesn't feed to me a statistic about channel delay time.

Q It does not?

A Does not.

Q What if I told you that I have seen reports put out by Hark verifiers that do precisely that?

A I would say I don't get them.

Q You don't get them. Have you ever inquired as to whether this information is available?

A No.

Q But you are thoroughly familiar with how to use a Hark verifier to monitor a competitor's channel and see -- complaints of interference on them aren't you?

A Yes, I am.

Q All right. Now -- we go back and translate the RAM's channel usage in terms of how much time out of the busiest hour of the day RAM is using the channel. Now, the, the, the Judge heard a few moments ago 50 minutes, I heard that number also. Would you believe that's a fair characterization?

A I, I think the channel was busy 50 minutes. RAM is also an affiliate of Network USA who transmits nationwide paging traffic.

Q Does it transmit it through RAM? Is RAM the local affiliate?

A Yes.

Q Okay. So, that traffic also goes through your terminal?

A Yes.

Q And for purposes of this discussion let's assume that, that Network USA traffic is also a part of RAM's channel --

A Okay.

Q -- channel usage. Okay. Now, with that understanding, is the 50 minutes that the Judge heard and I heard, is that approximately correct?

A On an average, probably. I've seen it go for several hours busy. Just according to the traffic load.

Q Several, several hours continuously?

A Try to go several hours continuously with, with intermittent, you know, breaks. But yeah, there's a lot of traffic out there.

Q Well, if it's, if it's got breaks then it's not continuous. I'm trying to understand --

A But -- okay, 50 per hour in the case of four or five hours as opposed to 50 minutes in one hour where the first hour might be nearly continuous.

Q Okay. Want to make sure I understand what you're testifying to. You mean to say that because of RAM's customer growth at this point, and remembering that it's also the local

affiliate for Network USA, that for let's say a stretch of four or five hours in the busiest parts of the day that each hour would be utilized about 50 of the 60 minutes?

A Or more. In the busiest parts of the day very possible to do more.

Q Okay. You're not suggesting that it's -- that you're doing a continuous transmission during that time for four or five hours?

A I've seen that happen before, yes.

Q Without a break?

A Without a break.

Q Okay. What kind of storage capacity for holding time does the RAM terminal have?

A I've asked Commonwealth that and they won't -- there is no firm answer because again it's, it's highly upon the, the type of page. The message content. It's, it's a fixed amount of memory, I don't, I don't know exactly how many bytes or kilobytes or memory it is. But if I send an alpha page that's 1000 characters and another alpha page that's 1000 characters, that's going to take up quite a bit of memory as opposed to several dozen tone-only pages with only the cap code. So, I don't know how many messages can be buffered up because they vary in, in length.

Q Well, can't you translate that into an amount of time -- holding time --

A No.

Q -- that the, the page can be buffered? No correlation?

A No. I mean, if the buffer is full and the channel can't dump it, we've lost -- the pages are lost.

Q Okay. So, if you -- that, that goes to what I was going to ask next. If, if the memory is full because of the, the busyness on your system and someone else places a page, it just drops out of the system?

A If -- yes, yes, it would.

Q All right, and the customer who placed that --

A First off, the -- I must say that --

Q There is no pending question.

MR. JOYCE: I think he hasn't finished his answer, Mr. Hardman.

MR. BOBBITT: No, no, I haven't, because that, that customer might not necessarily lose the page because the Commonwealth would not accept the page if the, if the buffer was full. It would give you back either -- ringing or busy and, and the, the initiator of the call would know something broke, I can't make the call and reinitiate the call again. And then the probability of the buffer fullness at the second call would then determine whether or not the page again was -- only delayed the caller's point of view, never hypothetically lost as far as I thought I was going to send a page but

because the channel was full I didn't.

BY MR. HARDMAN:

Q Okay. So, if I understand correctly, what, what you're saying is that the, the way your, your terminal is engineered and set up, a customer calling in when memory is full won't get the set of signals they're expecting to initiate a page. Is that right?

A That's right.

Q Get either ring, no answer or maybe a trunk busy signal or --

A Right.

Q But, but they, they will know from the, the -- what they hear in the telephone that they haven't placed a page?

A Yes.

Q There's something wrong that won't let them place a page?

A Usually.

Q Now, it's true is it not that the customer would consider that as a problem with the system wouldn't he?

A Yes, they would.

Q It's a defect in service isn't it?

A Well, yes.

Q Same way, it would be a defect in service if he or she waited 20 minutes or 30 minutes to get a page?

A Not in the same way, but sure. I mean, there's

still a problem there.

Q It's, it's a service problem?

A Yes.

Q They, they would, they would consider that a service problem?

A I agree, yes.

Q And chances are they would complain to marketing about that?

A I agree, yes.

Q Now, in your testimony one of the subjects that you addressed is the -- how good a wire line tie between terminals sharing on systems sharing a channel is. And I gather you're pretty high on that as a method of, of operating -- channel. Is that right?

A In my opinion it's better than radio link.

Q Better than radio link?

A Than busy monitor receivers, yes.

Q Well, let's make sure we define our term very carefully here. Radio link in this context would be a radio channel in lieu of a wire line connection. Isn't that right?

A No. In the context I was making, just a busy monitor receiver. An rf -- to --

Q I'm sorry.

A -- a radio receiver.

Q Let's, let's call that air monitoring for purposes

-- not a radio link.

A Okay.

Q Okay?

A Okay.

Q So, we're talking about -- we're, we're comparing for the moment a air monitor, monitor receiver on the one hand --

A Right.

Q -- versus a wire line on the other.

A Right.

Q Now, and, and in your opinion the wire line control is -- the wire line tie is a superior method of monitoring. Is that right?

A A dedicated tie, yes. I think it's superior to an open air receiver.

Q Not foolproof is it?

A No, not at all.

Q And in fact, isn't it true that if a channel is relatively busy and you've got more than one terminal with a lot of requests for access to the channel that you will have collisions between the two terminals?

A Not necessarily. That's, that's an engineerable parameter that you could design for.

Q Well, you could design for it how? By deciding how much channel time is available?

A That's one way.

Q Okay. So, the, the parities could agree on how to divide the channel and therefore design their systems so they wouldn't access at the same time?

A Yes.

Q But if the, if the wire line is merely a substitute for off-the-air monitoring, does that not imply that it's a -- just first come, first served? Isn't off-the-air monitoring first come, first served?

A Not necessarily. I mean, initially it would be. But again, it's, it's an engineerable parameter also.

Q Off-the-air monitoring?

A Sure.

Q Okay.

A The same rules could apply to off-the-air monitoring as, as wire line.

Q Okay. So, you could agree on how to divide the channel.

JUDGE CHACHKIN: Is that right?

MR. BOBBITT: Yes. Yes.

BY MR. HARDMAN:

Q Okay, and what else could you do?

A To do what?

Q To avoid the problem of collisions?

A I don't, I don't know.

Q But you, you can think of, of an agreement on how to divide the channel?

A Yeah. You could do that.

Q Right.

A You could -- you know, you could wait till idle time and then irregardless of the reason of the idle time, that's -- in order to avoid collisions you would wait till the channel indicator was idle and then you would proceed to transmit irregardless of why it became idle. That's the only way to avoid collisions no matter what the mechanisms are underneath.

Q Well, but to avoid collisions, if, if both terminals have a page and come up at the same time to monitor the channel to see if it's busy and, and, and on hearing nothing decide to transmit, isn't that, isn't that a collision?

A From, from -- both terminals going from a silent state to a busy state, it's possible for both of them to do it simultaneously?

Q Yes.

A That's true.

Q Yes.

A That's true.

Q Okay, and, and you're going to have that possibility whether you have the wire line control or an air monitor system, right?

A That's a remote possibility.
Q Remote?
A Yes.
Q Did that ever happen with a situation with Capitol?
A I can't say that it did. But I can say that once RAM was on the air for some reliably stable period of time that Capitol's transmitters did come up on the air irregardless of the state of the RAM transmitters and then go off the air.
Q I, I understand there are these, these claims and that's one form of interference, that, that we'll be talking about.
A So, in your case, hypothetically in both systems --
Q There is no pending question.
MR. JOYCE: I think he's still answering your question, Mr. Hardman.
JUDGE CHACHKIN: There's no pending question. Go ahead.
BY MR. HARDMAN:
Q As a matter of fact, if I recall your testimony correctly, you were high enough on this notion of a wire line control or wire line tie between the terminals that you thought Capitol should have used one of RAM's interexchange circuits to do this. Isn't that right?
A I don't think I said that. No, I said that Capitol

has in the past used RAM's services and --

Q Which services? I'm sorry.

A Private line services.

Q Okay, and, and that's because RAM is in the, the long-distance --

A RAM owns an interexchange carrier serving Kentucky, Ohio and West Virginia, yes.

Q Providing private line circuits?

A Yes.

Q Okay, and, and Capitol is a customer of that -- those carriers' services, right?

A Yes.

Q Okay, and now continue, please.

A And that we thought that -- or I thought that, that -- use the services, they've used them before.

Q And that would have been a perfectly logical and reasonable thing for Capitol to do, right?

A That's one option. We could have bought it from C&P for that matter, or AT&T, or any other carrier. I'm only establishing that we could have done it far less expensive.

Q So, that would have been, that would have been a -- an excellent way for Capitol to show its good faith about sharing the channel?

A To use RAM's service?

Q Yeah.

A No. To use wire line --

Q No, but I mean if, if, if the -- using one of RAM's circuits would accomplish this, then if, if I understand your, your point of view, since Capitol had been a previous customer of RAM's for these circuits that would have been an excellent way for them to show good faith and wanting to share the channel.

A No, that's not what I said at all.

Q Well, I'm asking. Is that true? That would have been a good way to show good faith?

A Not any more than ordering it from AT&T would. It's got nothing to do with, with RAM's being the provider of the service.

Q No, I'm not asking about -- but I'm just saying the, the -- I'm only asking if -- since RAM is in this business, if Capitol had come to RAM and said, hey, you're in this business, why don't we use one of your circuits to tie the terminals together? Wouldn't that have showed good faith in your opinion?

A To connect them in any manner would have shown good faith.

Q To connect them in any manner --

A As much good faith as, as using one of RAM's circuits. I'm, I'm not trying to sell a RAM circuit to get --

Q I'm not --

A -- to get it together.

Q I'm, I'm just -- but you did point out that Capitol was a customer of RAM for these interexchange circuits and --

A The point I was trying to make at that time was that Capitol had the confidence in RAM's private line network and RAM's ability to provide these special services, circuits, to have purchased them in the, in the past.

Q Right.

A And there would have been no reason to think that we couldn't have wire-line connected to any carrier in the future.

Q And, and using those same circuits, right?

A Not necessarily. Just one-line connect.

Q But, but those circuits would have been serviceable for that purpose, right?

A It would have, yes.

Q Now, are you aware of the reason that Capitol ceased being a customer of RAM for this interexchange circuits?

A No.

Q Would it surprise you to know that after Capitol applied for the private carrier paging frequency, and while the application was still being coordinated at Nabor, Mr. Moyer, controlling stockholder of RAM, kicked Capitol off of those channels? Would that surprise you?

MR. JOYCE: I object to the form of the question,

Your Honor.

JUDGE CHACHKIN: On what basis?

MR. JOYCE: The pejorative "kicked somebody off the frequency --"

JUDGE CHACHKIN: Well, I don't think that's pejorative at all. Overruled.

MR. BOBBITT: No, it wouldn't --

JUDGE CHACHKIN: That's a simple English word. I'm sorry. Go ahead.

MR. BOBBITT: No, it wouldn't surprise me.

BY MR. HARDMAN:

Q Wouldn't surprise you, why? Because that's the nature of the man Mr. Moyer is?

A No. It's because the business relationship I thought, you know, it -- I wouldn't -- it wouldn't have surprised me.

Q It wouldn't have surprised you, I -- that I understand. Now I want to know why it wouldn't have surprised you.

A Because --

Q Because at the point of time we're talking about, this was before -- while the application was still pending.

A No, no, no --

Q It hadn't even gone to the FCC.

A No. I think that still there are -- even though the

application was pending, there were still conditions in the market that indicated that we were going to experience some significant problems, i.e., the commercial that was ran on local television stations, the salespeople going out and telling people, hey, if you're on that RAM channel you're going to get some problems, the affidavits that we had from our customers saying that, gave us enough foundation to think, wait a minute, these guys are not going to play legitimate on this channel and it wouldn't surprise me if Mr. Moyer said I don't want you on our network, you know, you can find another carrier for your services.

Q Do you know whether those affidavits and those alleged incidents occurred before Mr. Moyer kicked Capitol off the air?

A No, I don't.

Q So, you were just supposing weren't you?

A I was just supposing that as soon as --

Q That's, that's an answer to my question.

A I don't, I don't remember any of the dates as far as that --

Q All right. Now, I believe you testified on the cost of the wire line circuit, if say obtained from, from the telephone company.

A No, I --

Q That's not correct?

A I, I testified that I've seen them in the range of $100 to $500. It's distance-milage-based and our investigation indicated that it would cost us around $300 to provide that service.

Q Well, $300 from whom?

A From us. I mean, should we provide one link of the service.

Q One link. You're talking about what, the interoffice portion?

A Yes.

Q Okay. So, in addition to interoffice, it would have to be local loop to the channel?

A That's true.

Q And who would, who would they have to get that from?

A C&P.

Q And those are additional costs, are they not?

A That's right.

Q And you don't know how much they'd cost do you?

A I've seen them in the range of $30 to $70.

Q 30 to 70; maybe more?

A I've never seen a loop higher than $70 for a two-wire single -- two-wire alarm type pair.

Q Well, this isn't a two-wire alarm is it?

A Sure it is.

Q This is a four-wire trunk isn't it?

A No, it's not.
Q No?
A Doesn't need to be.
Q Doesn't need to be?
A You're not going to ship audio, you're only going to ship signaling.
Q Okay. So, the two-wire would be adequate?
A Two wires would be adequate, that's right.
Q All right, and the, the $300 cost would be dependent on betting the interoffice circuit from RAM, right? The $300 that you referred to?
A Yes.
Q And this is the same company that, that refused to have Capitol as a customer. Isn't that right?
A I only used that number as a reference because that's the number that I looked for.
Q Well --
A That's a price that I could have provided. Someone asked me how much would it cost and I said between $100 and $500, through us it would have been around 300 total end-to-end. I didn't price the circuit.
Q I'm not --
A I was told not to price the circuit, Capitol wasn't interested in doing that. So, to suppose that they -- that Capitol turned us down because it would have been a RAM

facility, that's ludicrous. We never got past the point of shopping for a carrier.

Q I -- because what happened is --

MR. JOYCE: Objection, Your Honor. The transcript is going to be meaningless if Mr. Hardman keeps speaking while the witness is speaking. If we could just ask that he wait till the witness finishes his answer?

JUDGE CHACHKIN: I don't think that's been a problem. Go ahead, Mr. Hardman.

BY MR. HARDMAN:

Q I agree with you that if, if Capitol had turned down RAM for those circuits, that would arguably be ludicrous. My question is, isn't RAM the company that kicked Capitol off?

A I wasn't aware of that. You told me that.

Q All right. Now, on the cost of the, of the interoffice trunks, or the interoffice -- do you know if C&P could provide that complete end-to-end circuit?

A They could not have provided that complete end-to-end circuit.

Q And why not?

A Because RAM's terminal is in Ashland, Kentucky, that's an interstate circuit, C&P by law can only provide intralati services.

Q All right. So, they -- the circuit would have had to be -- the interoffice would have had to be obtained from an

interstate carrier. Is that right?

A Yes.

Q Like AT&T?

A Yes.

Q MCI?

A Yes.

Q Do you know if MCI had that capability?

A Yes, they had that capability.

Q Do you know that they served between those two points --

A Well, yes.

Q -- for private-line circuits, two-wire circuits?

A I know beyond a shadow of a doubt that they serve the Ashland, Kentucky market and the Charleston, West Virginia market.

Q For, for telephone service, right?

A For private-line, voice and data services.

Q Right. But you don't know whether they serve those two particular pairs do you?

A Yes, I do.

Q No, I mean between the two pairs.

A Yes. They serve -- they would -- they could provide service between Ashland and Charleston because their pop is in Lexington, Lexington is in the same lati as Ashland. It would have just taken an extremely long local loop from Ashland to

Lexington, 110 miles, to interconnect with the Lexington pop of MCI. MCI has a Charleston pop, it would have taken a very short local loop in Charleston in provide the service from 405 Capitol Street where their terminal is to, to Capitol paging's terminal. Yes, there's no doubt that those two city pairs could be provided with any voice or data service.

Q How far apart is Lexington from Charleston?

A Probably 150 miles.

Q And how far apart is Ashland from Charleston?

A 50 -- 45, 50 air miles.

Q Now, isn't it true that, that, that basically if you look on a map that between Lexington on one hand and Charleston on the other that Ashland would be sort of in the middle?

A Lexington is due west of Ashland and Charleston is due east of Charleston, yes.

Q So, what I'm understanding you to say is that to go to an interexchange carrier to arrange for a circuit to handle this wire line would have involved getting a local loop from, from the telephone company from Ashland to Lexington?

A Only through MCI. AT&T has a pop there in Ashland. So --

Q We're talking about you, you were very vociferous that MCI was capable of providing this service --

A Capable.

Q -- so we're exploring this.

A Not necessarily the most economic, but you're right, capable.

Q I want to define on this record what you mean by capable. I'm saying that to get service from MCI -- I'm asking isn't it true that to, to get this service from MCI it would -- it -- that MCI would have had to get or, or the end customer a local loop from the telephone company from the Ashland terminal to Lexington, where it would be cross-connected with an MCI circuit from Lexington to Charleston, where it would again be cross-connected from Charleston to Capitol's terminal? Is that right? Is that how it would have to be provisioned?

A Not necessarily, because I don't know --

Q -- MCI --

A -- I don't know where all MCI's pops are. I just said that for example I know that they have a pop in Lexington and, yes, if we use the pop in Lexington that's exactly how the circuit would have to be routed. Local loop from Ashland to Lexington, interoffice milage from Lexington to Charleston, local loop from Charleston to Charleston. You're right.

Q All right. So, from your knowledge that's how MCI would have had to do it?

A That's one way.

Q From your knowledge that's how --

A They may have other --

Q -- they would have had to do it? Is that right?

A That's one way. I don't know how they would have engineered it. I didn't ask them for a circuit.

Q Well, they couldn't do it directly could they?

A I don't know. I know that I bought MCI towers that they used as pops as close to Ashland as Norton Branch, four miles away. Two in between there, one around Morehead and one between Morehead and Lexington, and one in Lexington. They may have had several pops between Ashland and Lexington. But they do have a junction northwest of Lexington called Sadie.

Q Okay, and that's the one you know about in Kentucky. Isn't that right?

A That's one of them. I, I don't know --

Q Well, what others do you know about in Kentucky?

A I don't know of any other than --

Q You also testified in response to questions by Mr. Joyce about how a terminal would set up a -- or, or what, what it would take in fact to set up a chain sequence on say RAM's paging terminal. Do you recall that testimony?

A Yes.

Q I believe you indicated did you not that this was a fairly, and I, I want to use the term low-level function not in a pejorative sense, but this is not rocket science is it?

A That's right.

Q Did you say that, you know, relatively low-level clerks could perform this function?

A Our customer-service agents do it for us now --

Q Okay.

A -- that have been trained on the Commonwealth terminal.

Q Okay, and, and customer-service agent is a fancy term, but typically what are these -- what kind of education and experience do, do these people have?

A Low-level, yes. I mean --

Q High school?

A Yes, yes.

Q To some not even high school?

A No. They're all high school graduates.

Q Okay.

A But there, there are no degrees involved in, in operating the terminal.

Q Okay, and what, what kind of salary would these people have?

A I don't know.

Q Less than 15,000, generally?

A $7 or $8 an hour, possibly.

Q Seven or eight an hour? Okay. So, we're talking about a function that one can be performed by a broad range of, of people with a variety of educational backgrounds but

not very high. Is that right?

A Yes.

Q And you -- it has to be set up so that there are -- there's more than one that can perform this function in the course of the day. Is, is that right?

A Yes.

Q Now --

A Doesn't --

Q -- how many --

A -- have to be, but --

Q I'm sorry?

A It doesn't have to be set up that way. I'm not sure I follow your question, but --

Q Well, if you, if you only had one customer-service representative wouldn't there be kind of a long line of people waiting to get service?

A Well, it's according to how many people -- how many requests. But, you know, you staff the customer-service department to, to meet the needs of the, of the market.

Q Right, and how many customer-service representatives does RAM have in Ashland?

A Two.

Q Two?

A Dedicated to paging, yes.

Q Dedicated to paging. Do you have customer-service